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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,653	06/05/2000	David V. Sangar	UTSG.231US	8912

7590 01/28/2005
Fubright & Jaworski LLP
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Austin, TX 78701

EXAMINER

SCHEINER, LAURIE A

ART UNIT PAPER NUMBER

1648

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Commissioner for Patents

Applicants' amendments to the claims and arguments of October 25, 2004 regarding claims 19-21, 27-33 and 51-56 are acknowledged. As such, at least claim(s) 1-17, 19-46, 48, 49 and 51-56 of the instant application are believed to interfere (35 U.S.C. § 135(a)) with at least claim(s) 1-24 of U.S. Patent 6,627,437 B1 (Traboni). The patent claims priority of U.S. (or foreign identified by country) application GB 9912432 and appears to be entitled to benefit for the purpose of a priority contest under 35 U.S.C. § 135(a).

The patent is not prior art under 35 U.S.C. § 102(e). See, e.g., *In re Hilmer*, 359 F.2d 859, 149 USPQ 480 (CCPA 1966).

Nevertheless, a patent cannot be issued to applicant until it prevails in an interference with the patent.

In any interference, applicants would be the junior party.

Accordingly, applicants are required to make a showing under 37 CFR § 41.202(d) (see Notice of Final Rule, 69 Fed. Reg. 49960, 50019 (Aug. 12, 2004)) as to why it would prevail in an interference with the patent. Applicants have not presented a showing.

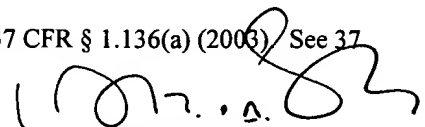
Applicants are hereby given a period of two (2) months to present a showing.

If a showing is timely presented, it will be forwarded to the board where it will be evaluated pursuant to 37 CFR § 41.202(e).

If at the end of the two-month period, a showing is not timely presented, the application will be forwarded to the board where it would be expected that an order to show cause would be issued pursuant to 37 CFR § 41.202(d)(2).

Note that "[n]ew evidence in support of priority will not be admitted except on a showing of good cause." 37 CFR § 41.202(d)(2); *Hahn v. Wong*, 892 F.2d 1028, 13 USPQ 1313 (Fed. Cir. 1989); *Huston v. Ladner*, 973 F.2d 1564, 23 USPQ2d 1910 (Fed. Cir. 1992). Hence, applicants should not expect to make a showing in the first instance after the application is forwarded to the board for a determination of whether an interference should be declared.

The time for responding to this Office Action cannot be extended under the provisions of 37 CFR § 1.136(a) (2003). See 37 CFR § 1.136(a)(1)(i) (2003).


LAURIE SCHEINER
PRIMARY EXAMINER